

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of NATALIE AYN MATHENY,
Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED
February 16, 2006

Petitioner-Appellee,

v

TONY LADELL LARK,

Respondent-Appellant.

No. 264228
Eaton Circuit Court
Family Division
LC No. 03-014604-NA

Before: Meter, P.J., Whitbeck, C.J. and Schuette, J.

PER CURIAM.

Respondent appeals as of right from an order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(h) and (j). We affirm.

The trial court did not err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). At the time the child was born, respondent was serving a federal prison sentence for bank robbery, with the earliest out date of 2013. In addition to the lengthy prison term, respondent faced the need for extensive services upon his release. He would have to demonstrate the ability to live a life free of crime and would need to obtain suitable housing and employment. Respondent makes much of the fact that the “eight or nine” cards he sent to the child were returned to him by the maternal grandmother and that he was essentially denied the right to develop a relationship with the child. However, respondent’s own criminal actions are what caused him to be incarcerated and unavailable to the child. It was clear from the record, therefore, that respondent was imprisoned for such a period that the child would be deprived of a normal home for more than two years, he did not provide for the child’s proper care and custody during that time, and there was no reasonable expectation that he would be able to provide proper care and custody within a reasonable time considering the child’s age.

The record also supports the trial court’s finding that there was a reasonable likelihood, based on respondent’s conduct or capacity, that the child would have been harmed if she was returned to him. By his own admission, respondent was involved in a domestic dispute in which he struck the child’s mother. Respondent also admitted that he committed six bank robberies to

support himself. He also had a prior conviction in Michigan for selling cocaine. It was clear that the child would have been placed in danger if she were allowed to reside with respondent, who lived a life of crime.

Having found that there was a statutory basis for termination, the trial court was required to terminate respondent's parental rights unless there was clear evidence on the whole record that termination was not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Respondent and the child shared no bond since respondent was incarcerated from the time the child was born. They had no contact with one another and the child did not ask questions about her father. There was simply no way to bridge the physical gap between respondent and the child. Respondent may have had a genuine interest in the child, but there was no relationship between them because the child had no knowledge of her father.

Affirmed.

/s/ Patrick M. Meter
/s/ William C. Whitbeck
/s/ Bill Schuette